

**COMMITTEE ON LIMITED JURISDICTION COURTS  
MINUTES**

Wednesday, May 11, 2011  
10:00am to 2:00pm  
Conference Room 119 A/B  
State Courts Building  
1501 W. Washington  
Phoenix, AZ 85007

**MEMBERS PRESENT:**

Honorable Antonio F. Riojas  
Ms. Carla F. Boatner  
Mr. C. Daniel Carrion  
Ms. Faye Coakley  
Ms. Janet G. Cornell  
Honorable Timothy Dickerson  
Honorable Maria Felix  
Honorable Roxanne Song Ong – *proxy*  
*for Honorable Eric Jeffery*

Mr. Patrick Kotecki  
Honorable Dorothy Little  
Honorable Mary Anne Majestic  
Honorable Arthur Markham  
Ms. Marla Randall  
Ms. Lisa Royal  
Honorable J. Matias Tafoya  
Ms. Valerie A. Winters

---

**MEMBERS ABSENT:**

Honorable Sam Goodman

---

**PRESENTERS/GUESTS:**

Mr. Jerry Landau  
Ms. Janet (Scheiderer) Johnson  
Mr. Cliff Ford  
Mr. Mark Stodola  
Ms. Melinda Hardman

Mr. Rick Rager  
Ms. Jennifer Greene  
Ms. Christi Weigand  
Mr. Stewart Bruner  
Ms. Theresa Barrett

---

**STAFF:**

Mr. Mark Meltzer

Ms. Tama Reily

---

**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

With a quorum present, the May 11, 2011, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order by Judge Antonio Riojas, Chair, at:10:07a.m.

**B. Approval of Minutes**

The draft minutes of the January 26, 2011, LJC meeting were presented for approval.

**MOTION:** To approve the January 26, 2011, LJC meeting minutes as presented. Motion seconded. Motion passed unanimously.  
LJC-11-004

## **II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS**

### **A. Legislative Update**

Mr. Jerry Landau, AOC Director of Government Affairs, reported on legislation passed in the recent session that will impact LJ courts. The bills can be found in [Appendix A](#).

Of note, there was lengthy discussion regarding SB 1398: Fines; criminal and civil traffic; assessment. Several members commented on the challenges courts would face with the implementation of this bill. A few of those mentioned included city code enforcement and zoning issued tickets, as well as task force issued citations. Members felt the bill was unclear about what is to be done in these types of situations. There was also perceived ambiguity regarding the distribution of funds and who is responsible for it. It was suggested that the judicial branch be enlisted to help ease the problems. Ms. Janet Johnson, AOC Court Services Division (CSD) Director, stated that she would be at the LJC Administrator's Association (AA) meeting tomorrow, 5/12/11, and would plan to discuss the issues with the group and consider some possible solutions.

### **B. Proposed Model Time Standards**

Ms. Janet Johnson, AOC Director of the CSD, spoke regarding the recent proposal by the National Center for State Courts (NCSC) for revision of model time standards. The proposed standards are the result of a two year study. They will be discussed at the July 2011 Conference of State Court Administrators (COSCA), which will be attended by Dave Byers, AOC Administrative Director. Therefore, members were given a copy of the proposed changes and asked to review them and provide their feedback to Ms. Johnson by June 10. This will allow Mr. Byers to review member suggestions in preparation for his participation in the COSCA discussion on the matter.

### **C. ACJA § 6-110: Offender Drug Testing**

Mr. Cliff Ford and Mr. Mark Stodola presented ACJA § 6-110: Offender Alcohol and Drug Testing which is proposed to update minimum standards for offender alcohol and drug testing practices and requirements. These guidelines were previously provided for under A.O. 95-20, however, it was felt that updating was needed specifically related to certification of laboratories on a national level in order to ensure accurate lab results. Daniel Carrion, who also serves on the Committee on Probation (COP), pointed out that some COP members had voiced concerns with language in section E(11), requesting the language be changed. The language

concerns a particular screening with no confirmation test. No action was taken on this item.

#### **Update on Revisions to Supreme Court Rule 124**

Mr. Stewart Bruner, AOC Manager of Strategic Planning in the Information Technology Division, and Ms. Melinda Hardman, AOC Policy Analyst in the Court Services Division (CSD), provided an update on the status of revisions to Supreme Court Rule 124. Mr. Bruner reiterated the history and purpose of Rule 124. He reminded members that amendments to Rule 124 were approved by the LJC prior to the filing of Rule petition R-11-0012 on January 7, 2011. He then informed members that based upon comments received during the initial comment period, which ended April 1, 2011, the proposal was revised to incorporate some of the suggested changes. He briefly reviewed the key changes and advised members that the new amended version was filed on May 9 and is open for comments through June 6. He requested that members go to the [Rules Forum](#) and offer their feedback on the Rule.

#### **D. Revisions to ACJA §§ 1-605 & 1-606**

Ms. Melinda Hardman, AOC Policy Analyst in the CSD, and Mr. Peter Kozinets, attorney with the firm of Steptoe & Johnson, presented proposed revisions to ACJA §§ 1-605: Requests for Bulk or Compiled Data, and 1-606: Providing Case Record Access to Public Agencies. She gave a brief history of the code sections, which were previously approved by LJC in October, 2009, and explained the issues that have come to light since the codes sections have been in place. She then described the ways in which the suggested changes would better distinguish between requests for bulk or compiled data and provide more clarity in the overall process. Mr. Kozinets, shared an example of a case in his law firm which involved bulk data requested from a court, and due to the conditions and restrictions in the two code sections, the law firm contacted Ms. Hardman, ultimately bringing to light the issues being rectified by these proposed code changes.

**MOTION:** To recommend that the Arizona Judicial Council approve the proposed revisions to ACJA §§ 1-605: Requests for Bulk or Compiled Data, and 1-606 : Providing Case Record Access to Public Agencies. Motion seconded. Motion passed unanimously. LJC-11-005

#### **E. R-10-0037: Guilty Pleas by Mail in Limited Jurisdiction Courts**

Judge Riojas reported on comments received by the State Bar of Arizona on the LJC's Petition to amend Rule 17.1(a), and to adopt Form 28(a) in Rule 41, Arizona Rules of Criminal Procedure. Judge Riojas noted the State Bar's comments included two objections: 1) "strike the word 'undue' as it modifies 'hardship'"; and 2) "delete the categories set forth in subsections (i) through (iv) of proposed Rule 17.1(a)(4) and would leave only category (v) intact".

Upon discussion, it was agreed that removing the term “undue” would not likely make a change in the meaning of ‘hardship’ and it essentially comes down to judicial discretion. On further discussion, members agreed to reject the second modification suggestion by the State Bar.

**MOTION:** To remove the word “undue” before the term “hardship”.  
Motion seconded. Motion passed unanimously. LJC-11-006

**MOTION:** To reject the suggested modification to delete the categories set forth in subsections (i) through (iv) of proposed Rule 17.1(a)(4). Motion seconded. Motion passed unanimously. LJC-11-007

Judge Riojas pointed out to members that the comment period for this petition remains open until May 20, however, the committee will not be meeting again prior to that date. It was suggested that Judge Dickerson, the author of this rule, be allowed to respond to any comments that may come in prior to the comment period closing.

**MOTION:** To allow Judge Timothy Dickerson to file a comment on behalf of the full Committee should additional Rule Petition comments be received prior to the end of comment period.  
Motion seconded. Motion passed unanimously. LJC-11-008

It was also suggested that a formal reply be drafted to the State Bar regarding the committee’s rejection of suggested modifications in subsections (i) through (iv) of proposed Rule 17.1(a)(4). This reply would be drafted by committee staff member, Mark Meltzer.

**MOTION:** To draft a formal explanation to the State Bar of Arizona as to the committee’s rejection of suggested modifications to subsections (i) through (iv) of proposed Rule 17.1(a)(4).  
Motion seconded. Motion passed unanimously. LJC-11-009

#### **F. Specialty Courts Conference –*item taken out of order***

Committee members, Daniel Carrion & Judge MaryAnne Majestic, announced a Specialty Court Conference coming up on May 19, 2011. Mr. Carrion, President of the Arizona Drug Court Professionals, discussed their role in the conference preparations and their success at getting several rural counties involved, including Cochise, Coconino, Yuma, Yavapai, and Santa Cruz. They expect 300 attendees and have numerous national speakers lined up. Judge Majestic spoke of the importance of the seminar’s subject matter, which is focused on specialty courts – mental health court, homeless court, DUI court, and drug court. She added that members who attend will receive COJET credit. Members were encouraged to attend

#### **G. Fine Reduction Program**

Christie Weigand, AOC Consolidated Collections Unit Manager, updated the committee on the outcome of the Fine Reduction Program Pilot. The results of the pilot were presented to the Arizona Judicial Council (AJC) in March and it was decided not to take the program statewide. She reviewed the numbers involved in the cases, which cases were excluded, and the final collection totals. She stated the total collection rate netted was only 1% where they had hoped for somewhere in the range of 2.5% to 6%. It was for this reason the AJC did not approve the program. However, Ms. Weigand noted that the FARE program has been very successful this year, as well as the Debt-Set Off Program, both exceeding previous collection totals.

#### **H. Homeless Courts**

Judge Kevin Kane, Phoenix Municipal Court, Rick Rager, Tempe Municipal Court Administrator, and Jeremy Mussman, Deputy Director of the Maricopa County Public Defender's Office, gave a presentation on the Regional Homeless Court. Judge Kane gave a brief history of the program, its purpose, and how it works. Mr. Rager spoke to the criteria of patrons and emphasized it is not a free ride, rather, it is an opportunity for the homeless to make a new start. Judge Kane mentioned that courts should be receiving letters shortly from Maricopa County Presiding Judge Norman Davis regarding the homeless court program and encouraging them to join in and contribute. Mr. Mussman discussed how a court can become a participating jurisdiction. He stated there is always the option for a court to have a judge pro tem handle the homeless court program for them. Mr. Mussman noted that he will be attending the LJCAA meeting tomorrow and will provide additional information to the court administrators on becoming a participant in the program. Finally, handouts were given to members and Judge Kane provided the [website](#) address where additional information and applications can be found.

#### **I. Committee on Civil Rules of Procedure for Limited Jurisdiction Courts**

Committee staff member, Mark Meltzer, briefed the committee on the status of the Committee on Civil Rules of Procedure for Limited Jurisdiction Courts (RCiP.LJC). He gave some background on the establishment of the committee, its purpose, and its member composition. Mr. Meltzer explained how the committee has approached its charge by forming work groups and dividing the rules among them. He also detailed the process of analysis they use on each rule in order to determine which rules apply in LJ courts and whether the rule can be simplified. The committee expects to report back to the LJC in the fall and present the finished product to the AJC on December 15, 2011. He did note the possibility that the committee may need to request an extension.

### **III. OTHER BUSINESS**

#### **A. Good of the Order/Call to the Public**

No comments offered.

**B. Next Meeting**

Friday, August 31, 2011

10:00a.m. to 3:00p.m.

State Courts Building

Conference Room 119

**Appendix A**  
**Limited Jurisdiction Courts**  
**Legislative Update May 11, 2011**

**2011 Legislative Session at a glance:** (As of Tuesday May 10<sup>th</sup>, 2011)

DAY OF SESSION	100
BILLS POSTED:	1350
BILLS PASSED:	386
BILLS VETOED:	29
BILLS SIGNED:	357
MEM, RES POSTED:	146
MEM, RES PASSED:	36

**HB 2015: County parks; justice court jurisdiction (Rep. Burges)** **CH 170**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2015s.pdf>

Extends the jurisdiction of justice of the peace courts pursuant to § 22-301, *Jurisdiction of criminal actions*, to include county parks that include a body of water located in two counties if one county has a population of more than 2,000,000 persons and one county has a population of between 200,000 and 300,000 persons.

Title affected: 22

**HB 2064: Foreign law; conflicts of laws (Rep. Burgess)** **CH 76**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2064s.pdf>

A court, arbitrator, administrative agency or other adjudicative, mediation or enforcement authority shall not enforce a foreign law if doing so would violate a right guaranteed by the constitution of this state or of the United States or conflict with laws of this state or the United States. Applies only to actual violations of the constitutional rights of a person or actual conflict with the laws of this state caused by the application of the foreign law.

Defines 'foreign law' as "any law, rule, or legal code or system other than the Constitution, laws and ratified treaties of the United States and the territories of the United States, or the Constitution and laws of this state."

Title affected: 11

**HB 2302: Protected address; Secretary of State (Rep. Mesnard)** **CH 173**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2302s.pdf>

Amends A.R.S. § 16-153, *Voter registration; confidentiality*, to include border patrol agents in persons eligible to request that the general public be prohibited from accessing the address, telephone number, and voting precinct number contained in their voter registration record.

The court may seal the change of name application and judgment on request if a person is protected under an order of protection or is a victim of stalking pursuant to A.R.S. § 13-2923, *Stalking, classifications, definitions*. If the offense took place in another jurisdiction, but would be classified as a violation or attempted violation of A.R.S. § 13-2923 if committed in this state, these provisions still apply. A person who obtained a judgment on or after Jan. 1, 2009, may request that the court seal the application and judgment pursuant to this section.

Directs the Secretary of State (SOS), by January 1, 2013, to establish the Address Confidentiality Program (ACP). The ACP allows victims of domestic violence, sexual offenses, or stalking to keep their residential address confidential, by giving them a substitute lawful address. Outlines what the application will include and what is considered evidence of domestic violence, a sexual offense, or stalking.

Allows an ACP participant to be served by certified or registered mail with any process, notice, or demand required by law and clarifies that this provision does not prescribe the only or necessary means of serving an ACP participant. Adds five days to the timeframe within which an ACP participant legally has a right to act, if they were served in accordance with law by mail or first-class mail. This provision does not apply if the time period is otherwise corrected by a court rule.

Individuals are certified into the ACP for four years following the date of filing. Certification may be renewed by filing a renewal application with the SOS within 30 days of the current certification expiring. ACP participants may withdraw certification by filing a request for withdrawal that is acknowledged before a notary public. If the ACP participant fails to notify the SOS of a change in legal name, current address, telephone number, or knowingly submits false information, certification of the program participant can be cancelled. Requires the SOS to send notice and the reason for cancellation to the program participant if it is determined that there is reason for cancelling certification. The program participant has 30 days to appeal the cancellation decision. Under A.R.S. § 41-155, the SOS cannot disclose any address or telephone number of an ACP participant except under the following circumstances:

1. The information is required under a court order
2. The SOS grants a request by a state or local government entity pursuant to A.R.S. § 41-157, *Request for disclosure*.

Any person to whom an ACP participant's actual address or telephone number has been disclosed cannot further disclose the information to any other person unless required by court order or as otherwise provided by law. The SOS shall immediately notify an ACP participant if it has disclosed a participant's information.

If an ACP participant is involved in divorce proceedings, child support, or the allocation of parental responsibilities or parenting time, the SOS must notify the court that the participant has been certified and is part of the ACP.

Anyone who knowingly and intentionally obtains or discloses an ACP participant's information is guilty of a Class 1 Misdemeanor.

The ACP participant is responsible for requesting that a state or local government entity use the substitute address as the participant's residential, school, or work address.

Except as otherwise provided for in the statute or by order of the court, if a participant submits a current and valid address confidentiality program card to the court, the court shall accept the substitute address as the home, work, and school address for the participant. The court may make a photocopy of the card and shall return the card to the participant.

Outlines how participants shall be able to register to vote and to vote.

A state or local government agency requesting disclosure of an ACP program participant's actual address must make the request in writing on letterhead. This provision does not apply to the court. The SOS must notify the participant of a request for address disclosure and allow the participant an opportunity to be heard regarding the request. The SOS must provide the participant with written notification if a request for disclosure has been granted or denied. Notice or opportunity to be heard shall not be afforded to the participant if the request for disclosure is made by a state or local law enforcement agency conducting a criminal investigation or if providing notice would jeopardize an ongoing criminal investigation or the safety of



law enforcement personnel. The director of the program, or the director's designee, must be available to state and local governments 24 hours a day for purposes of a request for disclosure.

Outlines an expedited disclosure process to be used by a court, criminal justice official or agency, or a probation department when disclosure is required pursuant to a trial, hearing, proceeding, or investigation involving an ACP participant. An official or agency obtaining information under the expedited disclosure process shall certify to the SOS that it has a system in place to protect the confidentiality of a participant's actual address from the public and personnel involved in the trial, hearing, proceeding, or investigation. A court or administrative tribunal may seal the portion of any record containing an actual address.

Permits a state or local government agency, at its discretion, to use an actual address in any document or record filed with a court or administrative tribunal if, at the time of filing, the document or record is not a public record.

Effective January 1, 2012, adds A.R.S. § 12-116.04, *Address confidentiality program assessment*, that adds a \$50 assessment for a person who is convicted of a domestic violence offense, a sexual offense, or stalking. The court may waive all of or a portion of the assessment if the court finds that the defendant is unable to pay the assessment. 95 percent of the assessment goes to the address confidentiality fund and 5 percent is retained by the clerk of the court for administrative costs.

Defines "actual address", "address confidentiality program", "applicant", "application assistant", "domestic violence", "program participant", "public record", "sexual offense", "stalking", "state or local government entity", and "substitute address".

**Delayed effective date: January 1, 2012**

**The program sunsets July 1, 2021.**

Titles affected: 12, 16, 39

---

**HB 2304: STATE ELECTIONS; OMNIBUS****CH 332****Representative J.D. Mesnard**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2304s.pdf>

In pertinent part:

A corporation, limited liability company, or labor organization may contribute to an independent expenditure committee. Inclusion of this provision results in penalty provisions within the statute being placed in different subsections.

Title affected: 16

---

**HB 2353: Sentencing; dangerous offenses; probation (Rep. Farnsworth)****CH 90**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2353s.pdf>

- Includes within the definition of 'dangerous offense', the "use or exhibition of a deadly weapon or dangerous instrument". This terminology was excluded in the criminal code sentencing reorganization because the word "threatening" was inadvertently not added to the phrase in a few sections when the definition of "dangerous offense" was modified in 1993. (Section 1, 5, 22, 23)
- A person who is over 18 commits Aggravated Assault if the assault is on a child under 15, rather than 15 or under (Section 6)
- Removes the special sentencing sections for certain crimes added in the sentencing reorganization and reinserts the sentencing provisions in the actual criminal offense. The special sentencing provisions were placed together in order to make them more easily visible, however, were found not to be beneficial to the understanding of the code. (Section 3, 4, 8, 9, 10, 11, 12, 13, 15, 16, 17 )

- Resolves an issue created by the enactment of Laws, 2010, chapters 97, 241 and 276 that resulted in two provisions of A.R.S. § 13-1204, *Aggravated Assault*, having to do with code enforcement officers and park rangers not having a penalty provision. (Section 6, 7)
  - A person commits Aggravated Assault if the assault is on a public defender, a code enforcement officer, or a park ranger (Section 6)
  - Removes the reference in the DUI treatment statute to alcohol or drug education and treatment ordered by MVD, as MVD only orders alcohol or drug screening, not education and treatment (Section 18)
  - Repeals the version of the Adult Offender Compact that was superseded by a newer compact ratified in 2002 (Section 20, 21)
  - Makes conforming and technical changes (Section 2, 14, 19)
- Titles affected: 13, 28, 31, 41

**HB 2355: Court surcharges (Rep. Farnsworth)**

**CH 260**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2355s.pdf>

Surcharges are applied to the base charge and not to any other surcharge. Replaces the words 'penalty assessment' and 'assessment' with 'surcharge' in A.R.S. § 12-116.01 and A.R.S. § 12-116.02.

Titles affected: 12, 28, 41

**HB 2369: DUI; work release (Rep. Smith)**

**CH 91**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2369h.pdf>

If a person is convicted under § 28-1381, subsection I or K, or § 28-1382, subsection D or E, and has served the requisite jail time and confirmed either employment or school attendance, the court shall allow the person to continue schooling or employment for no longer than 12 hours a day and 6 days a week, except if the court finds good cause to disallow the release and places its findings on the record.

Title affected: 28

**HB 2462 JLBC; annual report; debt (Rep. Williams)**

**CH 130**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2462h.pdf>

In pertinent part:

State government and all local governments shall report to the department of revenue all incurred debt.

"State government" is defined as any department, commission, board, institution or other agency of the state organization receiving, expending or disbursing state funds or incurring obligations against the state.

Title affected: 41

**HB 2541: Employee drug testing; medical marijuana (Rep. Yee)**

**CH 336**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2541s.pdf>

The list of actions providing an employer with protection against litigation when dealing with employees intoxicated on the employer's premises or during hours of employment is expanded to include:

- Actions based on the employer's good faith belief that an employee used or possessed any drug while on the employer's premises or during the hours of employment.
- Actions taken in good faith by an employer against employees who exhibit symptoms of impairment.
- Actions excluding an employee from performing in a safety-sensitive position

“Good faith” does not include gross negligence but may be a belief formed on observation, report, lawful surveillance, legal records or a result of a drug test.

“Drugs” includes any substance that is unlawful pursuant to the federal controlled substances act or Title 13, Chapter 34 or the metabolite of the drug.

Current use of any drug” means drug use that has occurred recently enough to allow the employer to believe involvement with drugs is ongoing. The time will be based depending on each case’s individual facts.

“Employer” means this state or any political subdivision of the state, any person, firm, company, corporation, labor organization, employment agency or joint labor-management committee, public utility, transit district or special taxing district that has one or more full-time employees employed in the same business, or the same establishment, under any contract of hire, express or implied, oral or written.

“Impairment” is defined as symptoms that an applicant or employee may be under the influence of drugs or alcohol that may decrease or lessen the employee’s performance of the duties or tasks of the employee’s job position.

“Safety-sensitive positions” is any job that includes tasks or duties that could affect the safety or health of the employee performing the task or others. This includes reassigning the employee to another position or placing an employee on paid or unpaid leave, based on the employer’s good faith belief that the employee is engaged in the current use of any drug. The use of drug can be legal, prescribed by a physician or otherwise, if the drug could cause impairment or otherwise decrease or lessen the employee’s job performance or ability to perform the employee’s job duties. The good faith belief can be based on information including results of an alcohol or drug test, warning labels, statements by the employee, information from a physician, pharmacist or reputable reference sources or other information the employer in good faith believes to be reliable.

An employer is allowed to use the medical marijuana verification system to verify a registry identification card that is provided to the employer by an employee or applicant that has received a conditional offer of employment.

Pursuant to A.R.S. § 36-2807, *Verification System*, within 120 days of the effective date of the Medical Marijuana Act, the Department of Health Services is required to establish a secure web-based verification system for employers to use on a 24 hour basis to verify registry identification cards. Employers can only verify registry identification cards provided to the employer by a current employee or by an applicant who has received a conditional offer of employment.

Includes severability clause for the Title 23 provisions.

**Retroactive to April 12, 2011.**

Titles affected: 23, 36

---

**HB 2585: Controlled substances; marijuana; monitoring (Rep. [Heinz](#))**

**CH 94**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2585h.pdf>

The controlled substances prescription monitoring program, administered by the Arizona State Board of Pharmacy, must include data from the Department of Health Services that identifies residents who possess a valid registry identification card.

Title affected: 36

---

**SB 1080: Custodial interference; classification (Sen. Gray)**

**CH 224**

<http://www.azleg.gov/legtext/50leg/1r/bills/sb1080h.pdf>

A parent who has no legal right to do so and either takes, entices, or withholds a child from the other parent before the entry of a court order, or has joint legal custody of the child and withholds the child from the other custodian, is not guilty of custodial interference if the person has filed an emergency petition regarding custodial rights, has received a hearing date and the person has a good faith and reasonable belief that the child will be in immediate danger if left with the other parent.

The law defining the crime of custodial interference is clarified to state that the Class 1 Misdemeanor classification applies only if the child (or incompetent adult) is returned by the parent or defendant, or the agent of either, no later than 48 hours after the child was taken.

It is a Class 1 Misdemeanor to intentionally make a false report of vulnerable adult abuse or neglect to a law enforcement agency or to a person who is required by law to report the information to a law enforcement agency.

Titles affected: 13, 29

**SB 1200: Driving under the influence; interlock (Sen. Gray)**

**CH 341**

<http://www.azleg.gov/legtext/50leg/1r/bills/sb1200h.pdf>

Intent: Utilize multiple levels of sanctions and new technologies including ignition interlock, alcohol and drug education, home detention and continuous alcohol monitoring in addition to incarceration and driver license suspension in order to reduce DUIs, reduce DUI recidivism and enhance highway safety.

1. Authorizes a City Council, County Sheriff and County Board of Supervisors to establish a continuous alcohol monitoring program with the approval of the Presiding Judge of the Municipal Court or the Presiding Justice of the Peace of the County, similar to a home detention program, for persons convicted of DUI. A person must pay all fees plus \$30 per month while in the program. Same requirements apply.

2. Modifies the requirements for the current home detention program and the new continuous alcohol monitoring program by permitting a person convicted of DUI with a prior or Extreme DUI to be placed in a program upon completion of 20 percent of the initial sentence.

3. Authorizes the County Board of Supervisors to establish a home detention program with the approval of the Presiding Justice of the Peace of the County. The requirements are identical to the current programs which can be established by a city council or sheriff.

4. Repeals the prohibition of home detention program use for persons convicted of Aggravated DUI.

5. Applies implied consent and *administrative per se* to drugs listed in A.R.S. § 13-3401 or their metabolites.

6. Modifies the requirement that a person convicted of first offense non-extreme DUI serve 24 consecutive hours in jail to state the person must serve one day in jail.

7. Removes the statutory requirement that a person charged with a first offense DUI be entitled to a jury trial except if the person is charged with Extreme DUI.

8. The court may suspend all but nine days of a sentence if the person is convicted of an Extreme DUI, A.R.S. § 28-1382 (A)(1), and all but 14 days of a sentence if the person is convicted of Extreme DUI, § 28-1382 (A)(2), if a person installs a certified ignition interlock device (CIID) for one year.

9. A person convicted of a second offense DUI or Extreme DUI is eligible for a CIID after a 45 day driver's license revocation.

10. Transfers the Aggravated DUI violation wherein a person required to equip a vehicle with a CIID because of a previous DUI conviction and refuses to submit to a blood alcohol test while under arrest for a

subsequent DUI from the Aggravated DUI statute, A.R.S. § 28-1383, to the interlock violation statute, A.R.S. § 28-3319.

11. Reduces the driver license revocation upon a conviction for Aggravated DUI from three years to one year and clarifies that the CIID requirement for the defendant to obtain a license after revocation is twenty four months, not twelve months.

12. A person whose driver license is suspended pursuant to A.R.S. § 28-1385 is eligible for a CIID during a period of suspension if the requirements of A.R.S § 28-1385 (G) are met.

13. An extension of the CIID requirement for violating an enumerated condition for driving with a CIID is set at six months. The CIID requirement is extended if the person attempts to operate a vehicle twice with a Blood Alcohol Content (BAC) of .08 or above, instead of the current three times. If a person with BAC of .08 or above attempts to operate a vehicle during a six month extension, the CIID requirement must be extended an additional six months.

14. ADOT is required to remove any interlock requirement if the person is convicted of a violation of A.R.S. § 28-1381(A) (3), DUI per se drugs and the court does not order alcohol education or treatment after screening.

15. Upon the completion of the following requirements, ADOT may defer the last six months, starting from the date the interlock was installed, of a one year CIID requirement.

- The person is sentenced pursuant to A.R.S. § 28-1381 (I) first offense non-extreme DUI
- The person successfully completes an alcohol or drug education course
- The person has maintained a functioning interlock ignition device in any vehicle operated for at least six consecutive months
- The person has not attempted to operate a vehicle with a blood alcohol content of .08 or more two or more times
- The person is not involved in an injury or damage accident
- All necessary compliance information was provided to ADOT by the interlock provider

The deferment is permanent, unless the person is arrested for DUI, Extreme DUI or Aggravated DUI during the period of the deferment. In that case ADOT is required to revoke the deferment and the person must complete the remainder of the CIID requirement.

16. Permits ADOT to substitute continuous alcohol monitoring for a CIID if the person is unable to use a CIID due to a medical or employment condition. During this period of continuous alcohol monitoring, the person must be tested for alcohol at a minimum of once a day. If the person tests positive for alcohol two times, ADOT is required to discontinue the continuous alcohol monitoring and require the person to install a CIID.

17. The Director of the Department of Corrections may authorize a person sentenced for Aggravated DUI and who is placed on probation to be released under a continuous alcohol monitoring program. The Director may require reimbursement.

18. Modifies legislation passed last year. An assessment of \$125, rather than a 10% surcharge on the amount of the fine, is added to a warrant issued as the result of a failure to pay a fine. However, the assessment is now only applicable if the underlying charge is a Title 28 offense. The assessment is not subject to any surcharges.

19. Gives constables the power to serve warrants pursuant to A.R.S. § 22-131.

**Delayed effective date of January 1, 2012**

Titles affected: 5, 9, 11, 22, 28, 31

**SB 1243: Bad checks; county attorney fees (Sen. Gould)****CH 188**<http://www.azleg.gov/legtext/50leg/1r/bills/sb1243s.pdf>

If a defendant is alleged to have committed multiple violations of A.R.S. § 13-1807, *Issuing a bad check; violation; classification*, within the same county, the county attorney may file a complaint charging all of the violations that have not been previously filed in the justice of the peace precinct in which the greatest number of violations occurred.

The fees that the county attorney may collect from a person who has issued or passed a check in violation of the specified statutes are increased as follows:

- From \$50 to \$75 if the face amount of the check is less than \$100;
- From \$75 to \$100 if the face amount of the check is greater than \$100, but less than \$300;
- From \$100 to \$125 if the face amount of the check is greater than \$300, but less than \$1000; and
- From 15% to 20% if the face amount of the check is greater than \$1000.

Title affected: 13

**SB 1291: Prisoners; credits for fines (Sen. Griffin)****CH 102**<http://www.azleg.gov/legtext/50leg/1r/bills/sb1291s.pdf>

A county jail prisoner sentenced to pay a fine shall be allowed up to a \$50 credit per day, rather than \$10, for each day employed at hard labor.

Title affected: 31

**SB 1398: Fines; criminal and civil traffic; assessment (Sen. Biggs)****CH 308**<http://www.azleg.gov/legtext/50leg/1r/bills/sb1398h.pdf>

In pertinent part:

Levies a penalty assessment of \$13 on every fine, penalty and forfeiture imposed and collected by the courts for criminal offenses and civil penalties for a civil traffic violation and fine, penalty or forfeiture for a violation of the motor vehicle statutes, for any local ordinance relating to the stopping, standing or operation of a vehicle or for a violation of the game and fish statutes in Title 17. The first \$1,000,000 will be deposited in the state general fund and is distributed as follows:

- \$4 to the Department of Public Safety Equipment Fund to be used by the Department of Public Safety (DPS) for protective armor, electronic stun devices, and other safety equipment
- \$4 to Gang and Immigration Intelligence Team Enforcement Mission Fund (GIITEM)
- \$4 to the agency that issues the citation or investigates the offense
- \$1 to the Justice courts
- For counties with a population less than two million the monies are distributed to the Justice Courts proportionately based on the judicial productivity credits calculated pursuant to A.R.S. § 22-125
- For counties with a population of two million or more the monies are distributed to the Justice Court administration

If a law enforcement agency issues a photo enforcement system citation and serves the citation in a manner other than what is authorized by the Rules of Civil Procedure, the agency is required to inform the person that there is no obligation to identify the driver or respond to the citation. Failure to respond to the citation will result in the probability that the person will be formally served, which will likely result in the person being required to pay the cost of the service.

If a person receives a Notice of Violation by mail for a violation of Title 28, Chapter 3, Article 3 (Traffic, signs, signals and markings) or Article 6 (Speed restrictions) or for a violation of a city or town ordinance for

excessive speed or failure to obey a traffic control device that is obtained using a photo enforcement system, the person is not required to identify who is in the photo or respond to the notice of violation.

The Notice of Violation must state:

- The notice is not a court issued document and the recipient is under no obligation to identify the person or respond to the notice
  - Failure to respond to the notice may result in official service that may result in an additional fee
- “Notice of Violation” and “Photo enforcement system” are defined.

Redirects FY 2011-12 monies from the State Aid to Indigent Defense Fund to the GITEM Board Security sub account

40% of the monies remaining in the Photo Enforcement Fund in FY 2011 and FY 2012, after paying expenses and court costs and not exceeding \$7 million, are deposited in the public safety equipment fund.

Titles affected: 12, 28, 41

**SB 1424: Assessment for family offenses; stalking (Sen. Nelson)**

**CH 296**

<http://www.azleg.gov/legtext/50leg/1r/bills/sb1424h.pdf>

In addition to any other penalty, fine, fee, or assessment, a person convicted of a violation of § 13-2921, 13-2921.01, 13-2923, or an offense listed in title 13, chapter 36, (all related to harassment and stalking), shall pay an additional assessment of \$50 to be deposited into the domestic violence shelter fund. This is not subject to any additional surcharge.

Titles affected: 12, 36

<b>RETIREMENT</b>
-------------------

**HB 2024; ASRS; amendments (Rep. Robson)**

**CH 277**

<http://www.azleg.gov/legtext/50leg/1r/bills/hb2024s.pdf>

Any employee hired on or after the effective date is not eligible for state employee benefits until the employee has worked for at least 90 days. Any state employee, not including current members, hired on or after the effective date is not eligible to become a member of any state retirement system until the 27<sup>th</sup> week of employment.

“State employee” means a person who is employed by an agency, department, board or commission of this state, a university under the jurisdiction of the Arizona Board of Regents, the Judicial Branch, the Arizona Corporation Commission or the Legislature.

“State employee benefits” means any coverage provided pursuant to Title 38, Chapter 4, Article 4 relating to health and accident coverage.

One provision under the definition of “current annual compensation” is changed to be equal to the annualized compensation of the partial year if the member has less than 12 months total compensation, rather than credited service, on the date of a request to purchase credited service.

All charter cities or ASRS retirement service credit transfers shall be made pursuant to A.R.S. § 38-922, *Transfer or redemption of service credits*.

An employer must pay interest on delinquent contribution payments or any other delinquent payments under Title 38 Chapter 5, Article 2.1, *Long term disability program*, Article 7, *Transfers of another retirement system or plan or Article 8, Supplemental defined contribution plans*. Employers must record delinquent payments.

A member who was previously a member of another public employee retirement system and who is either receiving or is eligible to receive retirement benefits from that system is ineligible to receive retirement benefits from ASRS for the same period.

Employer contributions for an active member who is called to active military service shall be for a period ending the date the member returns to employment or the date the member should have returned to employment, whichever is earlier. Also, the period in which the contributions shall be made may end either when the member is released from service related to hospitalization or two years after initiation of service related hospitalization, whichever is earlier.

On the death of a member who is not yet retired, the member's natural or adopted child under the age of 21 or the member's natural or adopted child of any age who is disabled is eligible to receive the member's survival benefits.

The lump sum retirement threshold is increased from a periodic payment of \$20 to an amount determined by the ASRS board. A member will continue to have rights to the ASRS Health Insurance Program, however the member will not be eligible for a permanent benefit increase.

For a member who elects to have any portion of an eligible rollover distribution paid directly to a retirement plan the definition "eligible retirement plan" includes, beginning Jan 1, 2008, a "Roth" IRA.

Under a Qualified Domestic Relations Order (QDROs) if an alternate payee dies before the member, the amount payable to the alternate payee cease on the death of the alternate payee and the amount formerly payable to the alternate payee is given to the member.

Monthly Long Term Disability Program benefits are not payable to a member who files an initial claim for disability more than 12 months after the date of the disability, unless the member demonstrates to ASRS good cause for not filing the initial claim within the 12 months. ASRS may suspend or terminate a member's long term disability if the member fails to provide the necessary information requested by ASRS or the insurance company or claims administration. The benefits or claim will be retroactively reinstated once the member provides the information.

ASRS is granted rule making authority.

Title affected: 38

#### **SB 1609: Retirement systems; plans; plan design (Sen. Yarbrough)**

**CH 357**

<http://www.azleg.gov/legtext/50leg/1r/bills/sb1609h.pdf>

#### **General**

If a member of a plan or system is convicted of a Class 1, 2, 3, 4, or 5 Felony that was committed in the course of a member's employment, the court shall terminate the employee's membership. The member forfeits all rights and benefits earned under the system or plan. The member may receive the member's contribution to the system plus interest as determined by the Board. Provides for a process when the criminal case is on appeal. The court may award a spouse, former spouse or dependent some or all of the benefits forfeited under enumerated criteria set forth in statute. The provision applies only to a system or plan to which the member was contributing at the time of the offense.

An active member or a member who is receiving benefits under the Long Term Disability Program may receive up to 60 months of credited service if the person at least 10 years of credited service with ASRS, EORP and CORP for the following;

- The member has prior employment with the United States Government, a state, territory, commonwealth, or other specified areas.
- A member may receive credit for active military service if they are not eligible for a military retirement benefit.



A defined contribution study committee will be established and will make a recommendation on the costs associated with transferring existing members to a defined contribution system and take a further look at the definition of compensation, consolidation or local boards, merging 401(a) plan options and medical disability reforms. The study must be completed by October 1, 2013. Appropriates \$100,000 to cover actuarial work of the study.

### **Arizona State Retirement System (ASRS)**

In ASRS the point system is eliminated for members who commence membership on or after July 1, 2011. "Normal retirement date" for these new members is defined as either:

- A members 65<sup>th</sup> birthday
- A member's 62<sup>nd</sup> birthday and completion of at least 10 years of credited service
- A member's 60<sup>th</sup> birthday and completion if at least 25 years of credited service
- A member's 55<sup>th</sup> birthday and completion if at least 30 years of credited service

A full time Superior Court Commissioner is required to become a member of ASRS if the Commissioner is appointed on or after July 1 of the first FY after the social security administration approves the inclusion of the Superior Court Commissioners on this state's section 218 agreement.

Early retirement, for members who commence membership after July 1, 2011, is the same as in current statute; however members will not be able to elect for early retirement based on the point system.

If a retired member's benefits have been suspended because the member resumed membership in ASRS (worked at least twenty weeks and twenty hours per week), the member must repay ASRS any retirement benefits received by the member during the time the member was receiving benefits and was also employed in the plan from the date ASRS determines that the member knew or should have known that the member's employment resulted in membership in ASRS. A retired member may return to work and still be eligible to receive retirement benefits if the retired member terminated direct employment with an employer at least 365 days before returning to work. Beginning July 1, 2012, an employer that employed the retired member shall pay ASRS an alternate contribution rate (ACR) starting the first day the employee began working. ASRS shall determine the ACR based on an annual valuation performed as of June 30 of each year.

If an active member was granted leave of absence from employment and returns to work with the same employer the member may receive up to 60 months of credited service for retirement purposes if they have at least 10 years of credited service.

Future PSPRS Fund Managers will be placed in ASRS.

ASRS is given rule making authority in regard to implementing return to work provisions.

### **Elected Officials Retirement Plan (EORP)**

For an elected official who becomes a member of EORP on or after January 1, 2012, the "average yearly salary" is calculated with the five consecutive years, rather than three, within the last 10 completed years of credited service that yields the highest average.

A full-time Superior Court Commissioner is required to become a member of ASRS if the Commissioner is appointed on or after July 1 of the first FY after the social security administration approves the inclusion of the Superior Court Commissioners on this state's section 218 agreement.

If an elected official, who becomes a member of the plan on or after January 1, 2012, ceases to hold office for any reason other than death or retirement, the official may withdraw the member's accumulated contributions and interest at a rate determined by the Board. An elected official who received a refund and is subsequently reemployed as an elected official and who redeposit's the amount withdrawn including interest

or a member who redeems prior service is subject to the benefits and duties in effect at the time of the elected official's most recent reemployment, in other words is treated as a new member. This provision does not apply if a court orders reinstatement of benefits and duties under a prior law.

A member who becomes a member of the plan on or after January 1, 2012 may not retire with a normal retirement pension with 20 or more years of credited service and no age limit. The member may retire with normal retirement at the age of 65 with five years of service or at the age of 62 with 10 years of service. The member may not take early retirement after five years of service as can current members.

Changes the amount paid to a surviving spouse of a deceased, retired or a deceased active or inactive recent elected official to  $\frac{1}{2}$ , rather than  $\frac{3}{4}$ , of the deceased retired member's pension at the time of death for members who become members of the plan on or after July 1, 2012. The member may elect to take part in an optional retirement benefit with a reduced pension and an increased surviving spouse's benefit.

The monthly pension amount of a member, who becomes a member of the plan on or after January, 2012 is calculated by multiplying three percent of the member's "average yearly salary" by credited service, not exceeding 75 percent of "average yearly salary."

Changes the disability pension of a recent elected official to 3% of the member's "average yearly salary" multiplied by:

- a. 25 years of service if the member has 10 or more years of credited service
- b. 12.5 years of service if the member has between 5 and 10 years of credited service
- c. 6.25 years of service if the member has fewer than 5 years of credited service

The flat contribution rate of 7% of the member's gross salary is set for both current and future members, retroactive to July 1, 2011:

- a. 7% of member's gross salary through June 30, 2011
- b. 10% of member's gross salary for FY 2011-2012
- c. 11.5% of member's gross salary for FY 2012-2013
- d. For FY 2013-2014 and thereafter, the member shall pay either 13 percent of member's gross salary or 33.3 percent of the sum of the contribution rate from the preceding fiscal year and the normal cost plus the amount required to amortize the unfunded accrued liability for the employer, whichever is lower. The member's contribution rate shall not be less than seven percent and the employer contribution rate must meet both the normal cost plus the amount required to amortize the unfunded accrued liability.

An employer must pay an alternative contribution rate (ACR) for a retired member who has been retired for more than one full term and returns to work in any capacity in an elected official position. The ACR must be greater than 10 percent and is the portion of the total required contribution applied to the amortization of the unfunded actuarial accrued liability, based on the total required contribution for the preceding fiscal year. The ACR is applied to the member's compensation, gross salary or contract fee. All ACR contributions are irrevocable and shall be used as benefits or to pay expenses of the plan. The employer will pay interest for delinquent ACR payments. The Board, based on submitted reports, will determine the compensation of a retiree who returns to work.

Redemption or prior service for all members is limited to those who have at least ten years of credited service with the plan and are capped at sixty months.

For the "COLA" or future benefit increase, effective July 1, 2013, if the retired member became a member of the plan prior to January 1, 2012 the member is eligible if the retired member or survivor was:

- Receiving benefits or before July 31 of the previous two years, and
- 55 years of age or older on July 1, of the current year and is receiving benefits on or before July 31 of the previous year

- If the retired member or survivor became a member of the plan on or after January 1, 2012 the member or survivor was 55 years of age or older on July 1 of the current year and is receiving benefits.

The maximum benefit increase if the ratio of the actuarial value of assets to the actuarial accrued liability of the fund is

- a) 60%-65% and the total return is more than 10.5%; 2% benefit increase
- b) 65%-70% and the total return is more than 10.5%; 2.5% benefit increase
- c) 70%-75% and the total return is more than 10.5%; 3% benefit increase
- d) 75%-80% and the total return is more than 10.5%; 3.5% benefit increase
- e) 80%- or more and the total return is more than 10.5%; 4% benefit increase

If 100 percent of the earnings of the fund that exceed the 10.5 percent of the total return is insufficient to fully fund the present value of the appropriate percentage increase, the percentage increase will be limited to the percentage in which the present value can be fully funded by the benefit increase monies available. Any earnings in excess of the amount necessary to fully pay the benefit increase will not be available for future benefit increases.

Effective January 1, 2016 the legislature may enact permanent one-time increases in retirement benefits after an analysis of the effect of the increase on the plan by JLBC.

### **Corrections Officer Retirement Plan (CORP) – Pertaining to probation officers**

For an employee who becomes a member of the plan on or after January 1, 2012 the “average monthly salary” is 1/60 of the aggregate of salary paid during a period of 60 consecutive months of service in which the member received the highest salary within the last 120 months of service. “Normal retirement date” for a member who becomes a member on or after January 1, 2012 is at least 62 years of age with 10 or more years of service or at least 52.5 years of age and 25 years or more of service.

For a member who becomes a member of the system on or after January 1, 2012, and terminates employment for any reason other than death or retirement, may withdraw the member’s accumulated contributions plus interest at a rate determined by the Board. A member who received a severance refund on termination of employment and is subsequently reemployed by an employer and who redeposit’s the amount withdrawn with interest or a member redeems prior service is subject to the benefits and duties in effect at the time of the member’s most recent reemployment. A member who transfers credit from one employer to another retains benefits and duties in effect at the time of the member’s transfer.

The amount of normal retirement benefit for a member who becomes a member on or after January 1, 2012 and has 25 years of credited service, is 62.5 percent of the member’s average monthly salary, except:

- a. If the person retires with more than 25 years of credited service, benefit increases by 2.5% of the member’s average monthly benefit compensation multiplied by the number of the member’s years of credited service in excess of 25 years
- b. If the person retires with less than 25 years of credited service, pension is reduced to the product of 2.5% of the member’s average monthly salary and the member’s credited service

A person who becomes a member of the plan on or after January 1, 2012, the amount of an ordinary disability pension is equal to a fraction times the member’s normal retirement pension. The fraction is found by dividing the member’s actual years of credited service, not to exceed 25, by 25.

Changes members’ current contribution rates, retroactive to July 1, 2011, and establishes a new contribution rate:

- a. Through June 30, 2011, 8.41%
- b. For FY 2011-2012, 8.41%

- c. For FY 2012-2013 and each fiscal year thereafter, 8.41% or 50% of the sum of the member's contribution rate from the preceding fiscal year and the aggregate employer contribution rate, whichever is lower, except that the member contribution rate shall not be less than 7.65%.

An employer must pay an alternative contribution rate (ACR) for a retired member who has been retired for 12 consecutive months and who returns to work in any capacity in a position ordinarily filled by an employee.

For the "COLA" or future benefit increase, effective July 1, 2013, if the retired member became a member of the plan prior to January 1, 2012 the member is eligible if the retired member or survivor was:

- Receiving benefits or before July 31 of the previous two years, and
- 55 years of age or older on July 1, of the current year and is receiving benefits on or before July 31 of the previous year
- If the retired member or survivor became a member of the plan on or after January 1, 2012 the member or survivor was 55 years of age or older on July 1 of the current year and is receiving benefits.

The maximum benefit increase if the ratio of the actuarial value of assets to the actuarial accrued liability of the fund is

- f) 60%-65% and the total return is more than 10.5%; 2% benefit increase
- g) 65%-70% and the total return is more than 10.5%; 2.5% benefit increase
- h) 70%-75% and the total return is more than 10.5%; 3% benefit increase
- i) 75%-80% and the total return is more than 10.5%; 3.5% benefit increase
- j) 80%- or more and the total return is more than 10.5%; 4% benefit increase

If 100 percent of the earnings of the fund that exceed the 10.5 percent of the total return is insufficient to fully fund the present value of the appropriate percentage increase, the percentage increase will be limited to the percentage in which the present value can be fully funded by the benefit increase monies available. Any earnings in excess of the amount necessary to fully pay the benefit increase will not be available for future benefit increases.

Effective January 1, 2016 the legislature may enact permanent one-time increases in retirement benefits after an analysis of the effect if the increase on the plan by JLBC.

Only employees who become members before January 1, 2012 can participate in the deferred retirement option plan.

If an active member was granted leave of absence from employment and returns to work with the same employer the member may receive up to sixty months of credited service for retirement purposes if they have at least 10 years of credited service.

The classification if the offense, making a false statement regarding any record of the plan with the intent to defraud the plan is increased from a Class 6 to a Class 5 Felony.

Contains a severability clause.

Title affected: 38

## BUDGET

**SB 1614: State budget procedures; 2011-2012 (Sen. Andy Biggs)**

**CH 26**

<http://www.azleg.gov/legtext/50leg/1r/bills/sb1614h.pdf>

Any employee hired after the effective date of the bill is not eligible for state employee benefits until the employee has worked regularly for at least 90 days and any state employee is not eligible to become a

member of the Arizona State Retirement System and the Long Term Disability program until the employee has worked regularly for at least 6 months.

Retroactive to July 1, 2011, in ASRS the 50/50 split of employee and employer contributions will change. The employee will now contribute 53% of the total required contributions and the employer will contribute 47% of the total contributions.

An agency director whose agency participates in ASRS may require agency covered employees to work reduced hours in order to comply with any reduction in appropriations.

For fiscal year 2010-2011 the six furlough days required is decreased to five days and the furlough days required in 2011-2012 are eliminated.

Titles affected: 38, 41

**SB 1621: Budget reconciliation; criminal justice; 2011-2012 (Sen. Biggs)**

**CH 33**

<http://www.azleg.gov/legtext/50leg/1r/bills/sb1621h.pdf>

***Judicial***

In pertinent part, adds A.R.S. § 12-119.05, *Post of duty; Supreme Court justice*. The designated post of duty of a Supreme Court justice who resides outside of Maricopa County shall be deemed to be the justice's place of physical residence at the time of the justice's appointment.

Repeals A.R.S. § 12-270, *Probation revocation and crime reduction performance funding; reports*.

Suspends the reporting requirements for the following sections of laws for FY 2011-2012:

- a) Annual Juvenile Intensive Probation Report
- b) Community Punishment Program Report
- c) Emancipation of Minors Report
- d) Annual Drug Treatment and Education Fund Report
- e) Annual Lengthy Trial Fund Report
- f) Annual Child Support Committee Report
- g) Annual Domestic Relations Committee Report

Suspends the following:

- 1) § 12-102.02, *State aid to the courts fund*, Subsection E:  
All monies spent or distributed from the fund shall be used to supplement, not supplant, funding at the level provided in fiscal year 1997-1998 by the counties for the processing of criminal cases in the superior court, including the office of the clerk of the superior court, and justice courts.
- 2) § 12-102.03, *Local courts assistance fund*, Subsection D:  
All monies distributed or spent from the fund shall be used to supplement, not supplant, funding at the level provided in fiscal year 1997-1998 by the counties for the processing of criminal cases.
- 3) § 12-135, *Alternative dispute resolution fund*, Subsection D:  
Monies from the alternative dispute resolution fund that are provided to local courts shall be used to supplement, not supplant, local funding that would otherwise be made available for alternative dispute resolution programs.
- 4) § 12-135.01, *Local alternative dispute resolution fund; report*, Subsection D:  
Monies in the fund shall be used to supplement, not supplant, funding that would otherwise be made available for alternative dispute resolution programs.
- 5) § 12-267, *Adult probation services fund*; Subsection D:  
State monies expended from the adult probation services fund shall be used to supplement, not supplant, county appropriations for the superior court adult probation department.

6) § 12-268, *Juvenile probation fund; use*, Subsection D:

State monies expended from the juvenile probation services fund shall be used to supplement, not supplant, county appropriations for the superior court juvenile probation department.

7) § 12-299.01, *Submission of plan; use of monies; prohibitions*, Subsection C:

The plan shall include a proposed budget necessary to implement and operate the plan. All monies provided shall be used to supplement monies currently used for community based sentencing and adult probation programs and services.

The Supreme Court shall submit a report to the joint legislative budget committee identifying any decrease in county funding relating to these suspending provisions, including the reasons for the decrease.

The Supreme Court shall not reimburse counties the 50 percent requirement for state funded representation of indigent defendants in capital post conviction relief proceedings pursuant to A.R.S. § 13-4041 or for grand jury expenses pursuant to A.R.S. § 21-428 and requires reimbursement only in the amount provided in the FY 2011 and FY 2012 General Appropriations Act.

***State Department of Corrections / County Jail***

If a person is sentenced to serve one year or less in the Arizona Department of Corrections (ADC), the person shall be committed to the custody of the county jail, unless the sheriff of the county has entered into an agreement to reimburse the ADC for the incarceration costs. The county must enter into a reimbursement agreement at least one month before a person is transferred into the custody of the ADC to serve their sentence and the county is prohibited from cancelling a reimbursement agreement, unless it has provided ADC with at least a one month's notice.

A person sentenced to a concurrent term of incarceration for more than one year is to be incarcerated in ADC. Counties must make reimbursements within 30 days after a request by ADC and requires the Director of ADC, if the county fails to make the reimbursement, to notify the State Treasurer of the amount owed. The Treasurer must withhold the amount, including interest, from any transaction privilege tax distributions to the county. The Treasurer shall deposit the monies in the State General Fund.

The State Treasurer is required to deposit monies received from a county for the costs of incarcerating a person in the ADC who otherwise would be incarcerated in jail in the State General Fund. In session law, a sentencing county that does not intend to enter into an agreement with ADC must notify ADC by February 1, 2012.

Unless the Sheriff of the sentencing county has entered in an agreement to reimburse the ADC for the incarceration costs, a person who is convicted of the following violations must serve the required sentence in jail

- Aggravated operation of watercraft while under the influence
- Aggravated DUI
- Operation of aircraft while under the influence

***State Capital Postconviction Public Defender Office***

Exempts the State Capital Post conviction Public Defender officer from the Attorney General Legal Services Cost Allocation Fund pro rata charge.

Requires, in a county with a population of less than 1.5 million, the state to pay 19.25 percent of justice of the peace compensation and employee related expenditures.

Titles affected: 5, 12, 13, 22, 28, 31, 41.